

PROFFERS

MHI-Spring Lake, L.L.C.
RZ 2013-SP-005

January 15, 2014

Pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner and Applicant, for themselves and their successors and/or assigns (hereinafter collectively referred to as the "Applicant"), hereby proffer that the development of the parcel under consideration and shown on the Fairfax County 2013 tax maps as Tax Map 88-1 ((2)) 8 (the "Property") shall be in accordance with the following conditions if, and only if, Rezoning application RZ 2013-SP-005 (this "Rezoning") is granted.

1. **Development Plan.** Development of the Property shall be in substantial conformance with the Generalized Development Plan ("GDP") entitled "Enclave of Burke" consisting of 15 sheets prepared by The BC Consultants and dated December 17, 2012, as revised through January 15, 2014. A maximum of 12 dwelling units shall be constructed on the Property.
2. **Minor Modifications.** Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP, such as, but not limited to, locations of utilities, minor adjustment of property lines, and the general location of dwellings on the proposed lots, may be permitted when it is determined by the Zoning Administrator that such modifications are in substantial conformance with the GDP and provided that the modifications do not increase the total number of dwelling units, decrease the setbacks from the peripheries, decrease landscaping, or alter the limits of clearing and grading.
3. **Advanced Density Credit.** Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein, or as may be required by Fairfax County or VDOT at time of site plan approval.
4. **Spring Lake Drive Improvements.**
 - A. Subject to the approval of VDOT, the Applicant shall install curb, gutter and a five (5) foot sidewalk within the existing right-of way along the Property's Spring Lake Drive frontage and shall extend the curb, gutter and sidewalk north from the Property's boundary to connect with the existing curb and gutter at the corner of Spring Lake Drive and Westwood Manor as shown on Sheet 2 of the GDP. Should VDOT not approve the above improvements or require modification of same, such changes shall be coordinated through the Springfield Supervisor's office and shall not necessitate a proffered condition amendment.

- B. Subject to the approval of VDOT, the Applicant shall refurbish the existing gravel shoulder along the west side of Spring Lake Drive from the Old Keene Mill Road to the Property's southern boundary.
 - C. Said above improvements shall be in place prior to the issuance of the first Residential Use Permit ("RUP") for the dwelling units fronting on Spring Lake Drive.
 - D. If prior to site plan approval for the Property, VDOT determines that four way stop controls at the intersection of Spring Lake Drive and Westwood Manor/Katherine's Drive are appropriate, the Applicant shall escrow \$3,000.00 with DPWES for the future installation of necessary signage by others.
5. **Street Dedication.** At the time of final record plat recordation for the Property, the Applicant shall dedicate in fee simple to the Board of Supervisors the right-of-way required for public street purposes as shown on the GDP.
6. **Interparcel Connection.** To provide continuity and connectivity of the public street network, the Applicant shall provide for future interparcel connection to adjacent property identified on the Fairfax County 2013 tax maps as Tax Map 88-1 ((2)) 10 ("Parcel 10") by constructing a stub street on the Property as generally shown on the GDP and dedicating right of-way to the property line with Parcel 10. Signage shall be provided at the end of the stub street indicating a potential future street connection.
7. **Landscape Plan.** A conceptual landscape plan for the Property illustrating the plantings and other features to be provided is shown on Sheets 5 and 6 of the GDP. As part of the site plan submission, the Applicant shall submit to the Urban Forest Management Division ("UFMD") of the Department of Public Works and Environmental Services ("DPWES") for review and approval a detailed landscape and tree cover plan which shall be generally consistent with the quality and quantity of plantings and materials shown on the GDP. The landscape plan shall be designed to ensure adequate planting space for all trees based on the requirements in the Public Facilities Manual ("PFM"). Plantings shall include only non-invasive species and, to the extent practical, plant species native to Fairfax County. Adjustments to the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be permitted as approved by UFMD. To ensure adequate sight distance, lower level branches of existing trees may be trimmed or removed.
8. **Tree Preservation.**
- A. Tree Preservation Plan. For the purposes of maximizing the preservation of trees in tree save areas shown on Sheets 7 and 8 of the GDP, the Applicant shall prepare a Tree Preservation Plan. The Applicant shall contract with a certified arborist or registered consulting arborist (the "Project Arborist") to prepare a Tree Preservation Plan to be submitted as part of the first site plan submittal and subsequent site plan submissions. The Tree Preservation Plan shall be reviewed and approved by UFMD. The Tree Preservation Plan shall seek to preserve the trees identified on the GDP for preservation. The Tree Preservation Plan shall

provide a Tree Inventory which includes the location, species, size, crown spread and condition rating percent of all trees 10 inches or greater in diameter, measured 4½ feet from the ground and located within twenty (20) feet of the limits of clearing and grading of the tree save areas shown on the GDP. The condition analysis shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the Tree Preservation Plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

- B. Invasive Species Management. The Applicant shall create and implement an invasive species management program to include all tree save areas that may contain invasive plant material (PFM 12-0404.2B and 12-0509.3D) that clearly identifies targeted areas and species, details removal and treatment techniques, replanting with herbaceous and woody material, monitoring, program duration, etc.
- C. Limits of Clearing and Grading. Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of necessary utility lines and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in accordance with the approved plans.
- D. Tree Preservation Walk-Through. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Project Arborist shall walk the limits of clearing and grading with a UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw, and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.
- E. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four (4) foot high, 14 gauge welded wire attached to six (6) foot steel posts driven 18 inches into the ground and placed no farther than ten (10) feet apart or super silt fence, to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be placed at the limits of clearing and grading as shown on the Phase I and Phase II erosion and sedimentary control sheets in all areas. The tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to the performance of any clearing

and grading activities on the site. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

- F. Root Pruning and Mulching. The Applicant shall (1) root prune roots one inch in diameter or larger of trees to be preserved that may be damaged during clearing, demolition, grading, utility installation and/or the installation of retaining walls; and (2) mulch to a minimum depth of 3 inches within the areas to be left undisturbed where soil conditions are poor, lacking leaf litter or prone to soil erosion. Areas that will be root pruned and mulched shall be clearly identified on the Tree Preservation Plan. All treatments for such trees and vegetation shall be clearly specified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be included in the Tree Preservation Plan and shall be subject to the review and approval of UFMD.

All root pruning and mulching work shall be performed in a manner that protects adjacent trees and vegetation that are required to be preserved and may include, but not be limited to, the following:

- (i) Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches, or as specified by UFMD at the pre-construction meeting.
- (ii) Root pruning shall take place prior to installation of tree protection fencing.
- (iii) Root pruning shall not sever or significantly damage structural or compression roots in a manner that may compromise the structural integrity of trees or the ability of the root system to provide anchorage for the above ground portions of the trees.
- (iv) Root pruning shall be conducted with the on-site supervision of the Project Arborist.
- (v) Tree protection fencing shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- (vi) Immediately after the Phase II erosion and sedimentary control activities are complete, mulch shall be applied at a depth of 3 inches within designated areas. Mulch may be placed within tree preservation areas at points designated by the Project Arborist to minimize impacts to existing vegetation. Motorized equipment may be used to reach over tree protection fence to place mulch at designated points. Mulch shall be spread by hand within tree preservation areas.
- (vii) Mulch shall consist of wood chips or pine bark mulch. Hay or straw mulch shall not be used within tree preservation areas.

(viii) UFMD shall be informed in writing when all root pruning and tree protection fence installation is complete.

- G. Tree Protection Signage. The Applicant shall provide signs that identify and help protect all areas to be left undisturbed. These signs will be highly visible, posted in appropriate locations along the limits of clearing and grading, and attached to the tree protection fencing throughout the duration of construction. Under no circumstances will the signs be nailed or in any manner attached to the trees or vegetation within the areas to be left undisturbed.
- H. Site Monitoring. During the installation of tree protection fencing, performance of root pruning and during any clearing or removal of trees, vegetation, or structures, or other activities in or adjacent to tree preservation areas prior to the approval of Phase I of the Erosion and Sediment Control Plan, the Project Arborist shall be present to effectively monitor the process and ensure that the activities are conducted in accordance with the proffers and as approved by the UFMD. Following approval of Phase I of the Erosion and Sediment Control Plan the Project Arborist shall actively monitor the Property to ensure that protection measures are maintained and functioning as intended and activities are conducted in accordance with the proffers and as approved by the UFMD. The monitoring schedule shall be described and detailed in the Tree Preservation Plan and shall be reviewed and approved in writing by UFMD. Inappropriate activities such as storage of construction materials, dumping of construction debris, and traffic by construction personnel shall not occur within these areas. Damage to understory plant materials, leaf litter and soil conditions resulting from activities not approved in writing by UFMD shall be restored to the satisfaction of UFMD.
- I. Tree Value Determination. The Project Arborist shall determine the monetary value of each tree on the Property within fifteen (15) feet of the clearing limits of clearing and grading and 12 inches in diameter and larger shown to be preserved in the Tree Inventory. The monetary value (herein, the "Tree Value") shall be determined using the Trunk Formula Method contained in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, and shall be subject to review and approval by UFMD. The location factor of the Trunk Formula Method shall be based on projected post-development Contribution and Placements ratings. The site rating component shall be equal to at least 80%.

The combined total of monetary values identified in the approved subdivision plan for trees designated to be preserved shall serve as a baseline sum in determining the amount of the tree bond, as specified below.

- J. Tree Bond. At the time of subdivision plan approval, the Applicant shall post both a letter of credit payable to the County of Fairfax and a cash deposit (herein, the "Tree Bond") to ensure preservation and/or replacement of the trees within fifteen (15) feet of the clearing limits of clearing and grading and 12 inches in diameter and larger shown to be preserved on the Tree Preservation Plan (herein, the "bonded trees"). The sum of the letter of credit shall be equal to one half (50%)

of the total monetary value of the bonded trees and the cash deposit shall equal to 33% of the amount of the letter of credit. The Tree Bond letter of credit shall be prepared in a manner acceptable to the County Attorney naming the County as beneficiary to ensure the preservation, conservation, replacement, removal and/or treatment of the trees identified in the Tree Preservation Plan, and to ensure the undistributed areas identified on the GDP.

The cash deposit shall be held by the County as a cash reserve that can be used by the County to ensure the preservation, conservation, replacement, removal and/or treatment of the trees identified in the Tree Preservation Plan and as approved on the subdivision plan, and for work relating to the protection and management of undistributed areas identified on the GDP.

At any time prior to final bond release, should any bonded tree die, be removed, or severely decline as determined by UFMD, the Applicant shall replace such trees at its expense. Replacement trees shall be of equal size, species and/or canopy cover as approved by UFM. In addition to this replacement obligation, the Applicant shall also make a payment equal to the Tree Value of any bonded tree that is dead, severely declining, or improperly removed. This payment shall be paid to the Tree Preservation and Planting Fund, established by the County for the furtherance of tree conservation objectives.

At the time of approval of the final RUP, the Applicant shall be entitled to request a release of any monies remaining in the cash deposit and a reduction in the letter of credit to an amount up to 20% of the total amounts originally committed.

Any cash or funds remaining in the Tree Bond shall be released two years from the date of the project's final bond-release, or sooner, if approved in writing by UFMD.

- K. Tree Preservation Easement and Deed Restrictions. At time of recordation of the subdivision plat, the Applicant shall record a tree preservation easement running to the benefit of both Fairfax County and the homeowner's association, in a form approved by the County Attorney and reviewed by UFMD, over the tree save areas as delineated by the limits of clearing and grading shown on the GDP, with the exception of Outlots A, B and C, which will instead be dedicated in conservation easements for stormwater management benefits. The tree preservation easement shall prohibit removal of any trees in the easement areas except those which are dead, dying, diseased, noxious or hazardous. The homeowners' association covenants and the deeds for each lot shall contain clear language delineating the tree preservation easement and the restrictions within those areas. The property plat shall also delineate and label the tree preservation easement on the lot. Restrictions within tree preservation easements shall include the protection of understory trees, shrubs and groundcovers, downed trees (incorporating safety considerations), woody debris, leaf litter and soil conditions present at the time of subdivision plan submission

The Applicant shall convey forested area management information prepared to satisfy Tree Preservation Plan requirements to initial purchasers of lots prior to the time individuals take ownership of their respective lots. Information shall include: 1) the Tree Inventory; 2) a plan showing the location of trees on the lot that are included in the Tree Inventory; 3) a tree preservation activities schedule updated to note completion of tree preservation activities required by the Tree Preservation Plan approved with the subdivision plan; 4) identification of any trees on the lot lost during development of the Property; 5) any change in condition rating resulting from storm damage or construction impact; and 6) any additional work performed for preservation and/or maintenance in tree preservation easements. A sample package shall be submitted for review by UFMD prior to issuance of the first RUP.

- L. Supplemental Plantings. Supplemental plantings shall be provided on the periphery of, and within the interior of, the limits of clearing and grading shown on the approved subdivision plan. Selected species shall be typical of the existing forest type such as American holly, flowering dogwood, eastern redbud, serviceberry, winterberry holly, arrowwood viburnum, witch hazel, silky dogwood, and Catawba rhododendron. Planted stock shall be treated as an integral part of the tree preservation area and mulched to include the supplemental vegetation as an extension of the existing tree line, not setting them apart from the forested area. Trees planted within the boundaries of the private tree conservation easement shall have the same protections as existing trees preserved with development of the site. Trees and shrubs to be planted shall be field located in coordination with UFMD to maximize survival potential and minimize impacts to existing vegetation designated for preservation.
9. **Architectural Design.** The building elevations prepared by Lessard Design, Inc. shown on Sheet 3 of the GDP are provided to illustrate the architectural theme and design intent of the residential dwellings. The architectural design of the proposed dwellings shall generally conform to the character and quality of these illustrative elevations, but the Applicant reserves the right to modify these elevations and add architectural ornamentation based on final architectural design.
10. **Universal Design.** Dwelling units shall be designed and constructed with a selection of Universal Design features and/or options as determined by the Applicant which may include, but not be limited to, front entrance doors that are a minimum of 36 inches wide, thermostats a maximum of 48 inches high, rocker light switches 44-48 inches high, electrical outlets a minimum of 18 inches high, emphasis on lighting in stairs and entrances, lever door handles, slip resistant flooring, clear knee space under the sink in the kitchen, a first-floor bathroom console sink, hand-held shower heads at tubs and showers, ADA compliant grab bars in the bathrooms, curb-less showers or a showers with a curb of less than 4.5 inches high, seat in master bath showers, and front loading washers and dryers
11. **Green Building Practices.** Dwelling units on the Property shall be constructed to achieve one of the following programs, the selection of which shall be determined by the Applicant:

- A. Qualification in accordance with ENERGY STAR® for Homes as demonstrated through documentation to the Environment and Development Review Branch of DPZ ("EDRB") from a home energy rater certified through the Residential Energy Services Network (RESNET) that demonstrates each dwelling unit has attained qualification prior to the issuance of the RUP for each dwelling;
- B. Certification in accordance with the National Green Building Standard using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to EDRB and from a home energy rater certified through the Home Innovation Research Labs that demonstrates that each dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling; or
- C. Certification in accordance with the Earth Craft House Program, as demonstrated through documentation provided to EDRB prior to the issuance of the RUP for each dwelling.

12. **Stormwater Management.**

- A. Subject to review and approval by DPWES, stormwater management ("SWM") and Best Management Practice ("BMP") measures for the Property shall be provided through the incorporation of innovative techniques and conservation easements as shown on the GDP. The SWM and BMP measures shall be developed in accordance with the PFM, unless waived or modified by DPWES.
- B. Maintenance of the SWM facilities shall be the responsibility of the Applicant and the successor homeowner's association. Prior to site plan approval, the Applicant shall execute an agreement with the County in a form satisfactory to the County Attorney (the "SWM Agreement") providing for the perpetual maintenance of all of the elements of the SWM facilities. The SWM Agreement shall require the Applicant and the successor homeowner's association to contract with one or more maintenance/management companies to perform regular routine maintenance of the SWM facilities and to provide a maintenance report every five years to the Fairfax County Maintenance and Stormwater Management Division of DPWES. The maintenance responsibilities under the SWM Agreement shall be disclosed to future purchasers prior to entering into a contract for sale and specified in the homeowner's association documents.
- C. Prior to issuance of the first RUP on the Property, the Applicants shall establish an account (the "SWM Maintenance Account") to be used as an escrow account for the initial maintenance of the SWM facilities. The Applicants shall make an initial contribution to the SWM Maintenance Account in an amount equal to the estimated cost for the homeowner association's maintenance responsibility for the first 10 years of the facilities, as approved by DPWES. Thereafter, the SWM Maintenance Account shall be funded through pro-rata assessments of subsequent owners of the Property.

- D. Should future County policy permit all or part of the SWM facilities on the Property to be eligible for County maintenance, then the Applicant or the successor homeowner's association may request County maintenance for eligible facilities and thereby void the applicability of above Paragraphs B and C for such facilities.
 - E. In the event that SWM and BMP facilities cannot be provided in substantial conformance with the GDP as outlined above and in accordance with the Fairfax County Stormwater Management Ordinance and PFM in effect at the time of site plan approval, the Applicant shall request a PCA for the review and approval of a revised GDP.
13. **Housing Trust Fund.** Prior to the issuance of the first building permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund ("HTF") the sum equal to one-half percent (1/2%) of the value of all of the units approved at the time of site plan on the Property. The percentage shall be based on the aggregate sales price of all of the units subject to the contribution, as if all of those units were sold at the time of the issuance of the first building permit, and is estimated through comparable sales of similar type units. The projected sales price shall be proposed by the Applicant in consultation with the Fairfax County Department of Housing and Community Development ("HCD") and shall be approved by HCD.
14. **Public School Contribution.** Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised September 1, 2012, the Applicant shall contribute \$10,488 per expected student (based on a ratio of 0.531 students per dwelling unit) to the Fairfax County School Board to be utilized for capital improvements or capacity enhancements to schools that students generated by the Property will attend. Such contribution shall be made prior to the issuance of the first RUP for the Property and shall be based on the actual number of dwelling units built. If prior to the Applicant's payment of the amount set forth in this Proffer, Fairfax County modifies the ratio of students per unit or the amount of the contribution per student, the Applicant shall modify the amount of the contribution to reflect the then-current ratio and/or contribution.
15. **Recreation Contribution.** At the time of the issuance of the first RUP on the Property, the Applicant shall provide a monetary contribution of \$33,797 to the Board of Supervisors for recreational opportunities as determined in consultation with the Springfield District Supervisor.
16. **Archaeological Review.** At least 30 days prior to any land disturbing activities on the Property, the Applicant shall conduct a Phase I archaeological study on the Property and provide the results of such study to the Cultural Resources Management and Protection Section of the Fairfax County Park Authority ("CRMP") for review and approval. The study shall be conducted by a qualified archaeological professional approved by CRMP. No land disturbance activities shall be conducted until this study is submitted to CRMP. If the Phase I study concludes that an additional Phase II study of the Property is warranted, the Applicant shall complete said study and provide the results to CRMP. If the Phase II study concludes that additional Phase III evaluation and/or recovery is

warranted, the Applicant shall also complete said work in consultation and coordination with CRMP, however that process shall not be a precondition of site plan approval but rather shall be carried out in conjunction with site construction.

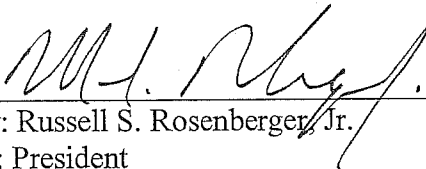
17. **Homeowners Association.** The Applicant shall form a homeowners association ("HOA") for the Property. The HOA shall be responsible for maintenance for any common elements including the SWM and BMP facilities described in Proffer 12 and the enforcement of any restrictions on the Property including the tree preservation requirements described in Proffer 8.
18. **Use of Garages.** A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This shall not preclude the use of garages as sales offices in the model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models. The covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the HOA and the Fairfax County Board of Supervisors. Purchasers shall be advised in writing of the use restriction prior to entering into contract of sale.
19. **Adjustments in Contribution Amounts.** For all proffers specifying contribution amounts with the exception of Proffer 13 related to the Housing Trust Fund and Proffer 14 related to the public school contribution, the contribution shall adjust on a yearly basis from the base year of 2015 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3.
20. **Severability.** Any of these buildings within the Property may be subject to Proffered Condition Amendments and Generalized Development Plan Amendments without joinder or consent of the property owners of the other buildings.
21. **Successors and Assigns.** These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.
22. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in the same instrument.

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APPLICANT/CONTRACT PURCHASER OF
TAX MAP 88-1 ((2)) 8

MHI-SPRING LAKE, LLC

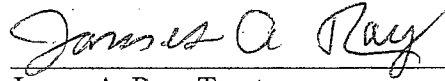
By: Madison Homes, Inc., its Manager


By: Russell S. Rosenberger, Jr.
Its: President

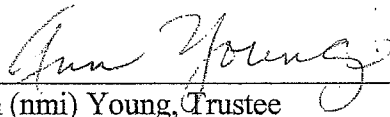
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TITLE OWNER OF TAX MAP 88-1 ((2)) 8

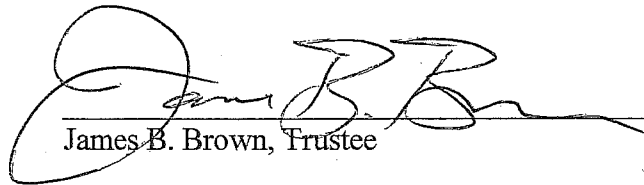
TRUSTEES OF CALVARY CHRISTIAN CHURCH



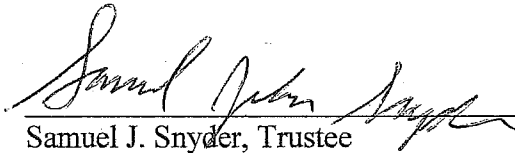
James A. Ray, Trustee



Ann (nmi) Young, Trustee



James B. Brown, Trustee



Samuel J. Snyder, Trustee

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